

The 17th April, 1974

No. 3186-4Lab-74/11881.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Lakhmi Dass-Hari Charan, Bahadurgarh:—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 72 of 1973

between

SHRI TULSI RAM AND THE MANAGEMENT OF M/S LAKHMI DASS-HARI CHARAN,  
BHADURGARH

Present.—

Shri Tulsi Ram, workman, himself.

Shri D. C. Bhardwaj, for the management.

#### AWARD

Shri Tulsi Ram, concerned workman, was in the service of M/s Lakhmi Dass-Hari Charan, Bahadurgarh. The management terminated his services with effect from 21st July, 1973, allegedly without any justification. He raised a dispute. — *vide* demand notice, dated 21st July, 1973, which was referred for adjudication to this court, — *vide* order No. ID/RK/239-A-73/40799-803, dated 10th October, 1973, of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, with the following term of reference.

“Whether the termination of services of Shri Tulsi Ram was justified and in order? If not, to what relief is he entitled?”

The parties were called upon to put in their respective claims in writing. A settlement has been arrived at. Their statements have been recorded. According to the settlement Shri Tulsi Ram, workman concerned, has received Rs 150 today before the court, in full and final settlement of his entire claims against the management, giving up his right of re-instatement or re-employment and he has also addressed the application, Ex. W'1, to this effect.

In view of the above, no further proceedings are called for in the case and a no dispute award is given in terms of the above settlement. There shall be no order as to costs.

O. P. SHARMA,

Dated 3rd April, 1974.

Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 870, dated 8th April, 1974.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 2999-4Lab-74/11885.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Haryana Agro Industries Corporation Ltd., Chandigarh:—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 63 of 1972

between

SHRI BADAN SINGH AND THE MANAGEMENT OF M/S HARYANA AGRO  
INDUSTRIES CORPORATION LTD., CHANDIGARH

Present.—

Shri R. L. Gupta, for the management.

Nemo, for the workman.

## AWARD

Shri Badan Singh concerned workman was in the service of M/s Haryana Agro Industries Corporation Ltd., Chandigarh posted at Panipat. The management terminated his services,—*vide* order dated 1st October, 1971. Feeling aggrieved he raised a demand for reinstatement but without any success. The conciliation also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the dispute for adjudication to this court in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947,—*vide* order No. ID/KNL/137-B-71/5911, dated 18th February, 1972, with the following term of reference :—

“Whether the termination of services of Shri Badan Singh was justified and in order ? If not, to what relief is he entitled ?”

The parties were called upon to put in their respective written statements. The workman merely relied upon the demand notice dated 15th October, 1971, which forms part of the present reference and wherein it has been mentioned that his services had been illegally terminated without any notice or charge-sheet and only by way of victimisation as he had filed 2 applications under section 33-C(2) of the Industrial Disputes Act for the computation of his dues. The management on the other hand, filed detailed written statement alleging that during the course of his employment as Head Store-keeper he had been receiving various advances in connection with the expenses to be incurred for the purchase of stores and there was a shortage of 23 imported Discs in the store which could not be properly explained by him. It was further alleged that he had been retaining large amount of advances drawn by him during the years 1968-69 and 1969-70 without submitting any accounts. Still another allegation was made against the workman that as Head Store-keeper he was required to furnish a fidelity guarantee policy to the extent of Rs 1000/- which he failed to renew beyond 16th January, 1971 till the date of the termination of his services.

With the above allegations in the written statement it was contended that the management had lost confidence in this workman and therefore, terminated his services by offering him one month's wages in lieu of notice in terms of his employment and that being so it was a simple case of discharge simpliciter without causing any stigma against him.

From the pleadings of the parties, the only issue that arose for determination in the case was as per the term of reference stated above.

The management has examined its Legal Assistant Shri Rajinder Pal Aggarwal as M.W. 1 who has produced the original records pertaining to the workman concerned and proved statement of account (3 sheets) Ex. M.W. 1/1, copy of the journal voucher No. 22, dated 28th February, 1969 Ex. M.W. 1/2, statement showing shortages (4 leaves) Ex. M.W. 1/3, invoice received from M/s Light Carts (P) Ltd., Meerut showing receipt of 3650 Discs Ex. M.W. 1/4, extract from the relevant entry in the stock register showing receipt of 3637 Discs Ex. M.W. 1/5, true copy of the office note of the Secretary (3 sheets) Ex. M.W. 1/6.

Besides the above documents, the management has brought on record the appointment letter of Shri Badan Singh as Store-Keeper, application for the post of Head Storekeeper, appointment letter dated 17th August, 1969 as Head Store-keeper, confidential letter dated 17th June, 1970 of the Managing Director asking for his explanation regarding storage of the 23 Discs, another letter dated 17th March, 1971 regarding recovery of Rs. 967/- from him as the price of the said Discs, letter dated 8th July, 1971 regarding the Fidelity Bond alleging that the date of premium had expired on 17th January, 1971 and that the sum of Rs. 967/- on account of the price of the shortage of 23 Discs was being recovered from him in instalments, confidential letter dated 1st August, 1971 addressed by the Panipat Office to the Secretary, Haryana Agro Industries Corp. Ltd., Chandigarh regarding the renewal of the Fidelity Bond of Shri Badan Singh, the letter dated 1st October, 1971 regarding the termination of services of Shri Badan Singh. All these documents have been admitted on behalf of the workman who has also checked the original records excepting the entry of Rs. 1,000/- in the Journal Voucher No. 22, dated 28th February, 1969 which was in the file of the Civil Court and copy whereof has now been produced by the management.

The workman has not turned up nor his authorised representative nor has any request for adjournment of the case has been received by him. I have heard the learned representative of the management and given a very considered thought to the material on record. As would be clear from the facts discussed above there were serious allegations of mis-appropriation of the property belonging to the management and non-submission of accounts of the advances received by this workman from time to time. He did not submit any satisfactory explanation. He was holding a very responsible post of the Head Store-keeper. In the circumstances, it was but natural that the management had lost confidence in him and as such it was within its right to terminate his services by giving him one month's notice or salary in lieu of notice in terms of his appointment. Apparently, the management has dealt with him rather leniently by passing an order of discharge from service simpliciter without attaching any stigma which could mar future chances of service in some other establishment. He could even be prosecuted for these serious charges. At any rate, since it is an order of termination or discharge

simpliciter which the management was fully justified in passing, having lost confidence in the workman who was holding a responsible post, he has apparently nothing to say against the impugned order.

For the reasons aforesaid, the issue involved is decided against the workman and in favour of the management holding that the impugned order of the termination of his services is perfectly justified and in order and in the circumstances, he is not entitled to any relief by way of reinstatement or payment of back wages. No order as to costs.

Dated the 28th March, 1974.

O.P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 862, dated 1st April, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 3188-4 Lab-74 11887.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and the management of M/s. Karnal Coop. Transport Society Ltd., Karnal :—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 35 of 1971

*between*

SHRI BANWARI LAL AND THE MANAGEMENT OF M/S KARNAL COOPERATIVE  
TRANSPORT SOCIETY LTD., KARNAL

*Present.—*

Shri Madhusudan Saran Kaushish for the workman.

Shri Harbans Singh for the management.

#### AWARD

By order No. ID/8198, dated 19th February, 1971 of the Governor of Haryana, the following dispute between the management of M/s Karnal Cooperative Transport Society Ltd., Karnal and its workman Shri Banwari Lal was referred for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 :—

“Whether the termination of services of Shri Banwari Lal, Conductor, was justified and in order? If not, to what relief is he entitled?”

On receipt of the order of reference, usual notice were given to the parties and they put in their respective written statements giving rise to the following issues :—

1. Whether the retrenchment of the applicant Shri Banwari Lal was justified and in order? If not, to what relief is he entitled?
2. Whether the reference is not legal because no demand notice was served upon the respondent which was rejected by the management before the start of conciliation proceedings?

The case was fixed for evidence of the management on 13th December, 1971, but no evidence was produced and the case was adjourned to the 10th February, 1972, subject to payment of Rs. 50/- as costs. Costs of adjournment were not paid by the management nor was any evidence produced on the date fixed in the case. The case was, however, adjourned to the 11th February, 1972 and then to 15th February, 1972. But none appeared on behalf of the management on either date. *Ex-parte* evidence of the workman was recorded and my learned predecessor gave his award on 2nd March, 1972 entitling the workman concerned to reinstatement with continuity of previous service and full back wages.

Feeling aggrieved by the *ex-parte* award, the management filed a writ petition in the High Court which was allowed and Hon'ble Mr. Justice C. G. Suri was pleased to remand the case for fresh decision, - *vide* order dated March 1, 1973 after disposing of the application dated 13th March, 1972 filed by the management for setting aside the *ex parte* proceedings. The following two issues were framed:—

1. Whether the application dated 2nd March, 1972 for setting aside the *ex parte* award was properly presented by a duly authorised person? If not, with what effect?
2. Whether there are sufficient grounds for setting aside the *ex parte* award.

The management has led some evidence, oral as well as documentary. It is, however, not necessary to go into the above issues nor into the merits of the case as an amicable settlement has been arrived at between the parties, as per terms and conditions given in the memorandum of settlement dated 11th March, 1974 Ex.MX. According to this settlement the workman concerned has been paid Rs. 1625.43, in full and final settlement of his entire claims against the management including the right of reinstatement or employment. It has further been agreed that the Bank Guarantee of Rs. 5,000 given by the management be released. Statement of the parties have been recorded.

In view of the above, a no-dispute award is given in terms of the aforesaid settlement arrived at between the parties holding that the workman concerned is not entitled to any other relief by way of reinstatement or payment of any other dues. In the circumstances, there shall be no order as to costs. Necessary orders be issued to the Bank concerned for releasing the Bank Guarantee of Rs.5000/-furnished by the management.

Dated 2nd April, 1974.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 872, dated the 8th April, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 3187-4Lab-74/11889.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Kalkaji Compressor Works, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 179 of 1971

between

SHRI CHAMAN LAL TALWAR AND THE MANAGEMENT OF M/S KALKAJI COMPRESSOR WORKS, MATHURAROAD, FARIDABAD

Present. -

Shri Chaman Lal Talwar, workman concerned.

Shri Anand Parkash and Shri K. N. Gulati, for the management.

AWARD

Shri Chaman Lal Talwar workman concerned was in the service of M/s Kalkaji Compressor Works, Mathura Road, Faridabad. His services were allegedly terminated by the management with effect from 8th March, 1971. Feeling aggrieved, he gave the demand notice on 22nd April, 1971 where upon Conciliation proceedings were initiated which, however, ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred the disputes for adjudication to this Court, — vide order No. ID/FD/29100-12, dated 23rd September, 1971, with the following term of reference.

Whether the termination of services of Shri Chaman Lal Talwar was justified and in order? If not, to what relief is he entitled?

The management contested the claim of the workman mainly on the ground that his service had automatically come to an end on his attaining the age of 61 and that he had received payment of his dues in full and final settlement of his entire claims against the management. An objection regarding the constitutional validity of section 2-A of the Industrial Disputes Act, 1947 was also raised. The following three issues arose from the termination in the case from the pleading of the parties:—

1. Whether the service of the workman Shri Chaman Lal Talwar automatically came to an end on his attaining the age of 61 which is well beyond the age of superannuation?
2. Whether an objection regarding the constitutional validity of section 2-A can be raised in these proceedings?
3. Whether the workman took his dues in full and final settlement of his claim and as such, the reference is invalid?

The management has examined one witness Shri K. N. Gulati, Works Manager MW/1 who has proved seven documents including application for appointment of the workman concerned Ex. M/1, copy of the order, dated 8th March, 1970 terminating his service by way of retirement Ex. M/2, voucher of the payment of his dues Ex. M/3, application, dated 30th April, 1971 of the workman claiming refund of bus fare of Rs. 30 Ex. M/4, receipt of payment of this amount to him Ex. M/5, copy of the settlement, dated 12th February, 1971 between the management and workman in the concern Ex. M/6 and appointment letter of Shri Chaman Lal Talwar, dated 18th October, 1963 Ex. M/7.

The workman has made his own statement besides examining one witness Shri Brahm Raj Gupta, Ex-President of Workers Union in the concern and reliance has also been made on a statement Ex. WW/1 alleging short payments of his dues by the management. The case has been fully argued on both sides and I have given a very careful consideration to the facts on record which taken together lead to the conclusion that, as a matter of fact, it is not a case of termination of the services of the workman concerned by the management by way of punishment, victimisation or otherwise but that it is a simple case of his retirement from service on attaining the age of superannuation. A perusal of the application for appointment made by the workman Ex. M/1 would show that his date of birth was 1-10-1910. He was retired from service on 8th March, 1971 — vide letter Ex. M/2 when he had crossed the age of 60 years. The management has placed on record a settlement, dated 12th February, 1971 Ex. M/6 arrived at between the management and the union of the workers in the concern whereby the retirement age of a workman had by mutual agreement been fixed 55 years. The grievance of Shri Chaman Lal Talwar is that some persons beyond the age of 65 years are still in service and he has named some such persons who are, however, on the managerial or the personal staff. He has not cited a single instance of a workman having been retained in service beyond the age of 55 years the settlement Ex. M/6 having been brought about between the management and the Union of workers in the concern in conciliation under section 12(3) of the Industrial Disputes Act, 1947 it is binding upon all the workmen including Shri Chaman Lal Talwar, the workman concerned in the case. His appointment letter Ex. M/1 which is the contract of his service does not provide that the management was under any obligation to retain him in service even after he had crossed the age of 60 years.

There are other facts on record which further go along way to establish that the impugned order of the alleged termination of his services had been accepted by this workman as an order of his due retirement without any protest. The retirement order was made on 8th March, 1971. He had received payments of his dues on 10th March, 1971 including wages, gratuity, provident fund account, notice pay, etc. — vide voucher Ex. M/3. The matter does not end there. On 3rd April, 1971 he had asked for the refund of bus fare of Rs. 30/- which had been wrongly deducted from his wages as he had not availed the bus service in the month of March, 1971. His application for this purpose is Ex. M/4 on record and the amount was refunded to him — vide receipt Ex. M/5. If the order of his retirement was not justified and he had felt aggrieved by it, it does not stand to reason that he would have received the dues in full and final settlement of his entire claims against the management without protest and would further have asked for the refund of the bus fare.

The workman concerned has advanced another argument to question the validity of the retirement order. It has been contended that he was appointed by the Factory Manager but the retirement order has been made by the work Manager by way of victimisation. These please have not been taken in the demand notice leading to the present reference nor even in the statement of claim filed in the case. Otherwise also the contention is devoid of force as the Works Manager is also the Factory Manager.

That disposes of the entire case. No other point worth consideration has been urged on either side. For the reasons aforesaid issues Nos. 1 and 3 are decided against the workman and in favour of the management holding that his services had automatically come to an end on attaining the age of 61 years, and that he had received payment of his dues in full and final settlement of his claims against the management, and as such he had no good ground to question the validity of the order of his retirement.

In view of my above finding of issues Nos 1. and 3 the present reference is manifestly bad in law. There is another aspect of the case which deserves consideration here. The demand notice leading to the present reference was given by Shri Chaman Lal Talwar himself and not by the Union of the workers. This court cannot, of course, go into the question of the vires of section 2—A of the Industrial disputes Act, 1947 and to that extent issue No. 3 is decided against the management. But this being not a case of dismissal, discharge or termination of the services of the workman but a simple case of his retirement from services on attaining the age of superannuation the provisions of section 2-A are not attracted to the facts of the case and for that reason also the reference is invalid.

So, taking into consideration all the facts and the circumstances of the case and my findings on the issues involved, I hold that the present reference is bad in law and the workman concerned is not entitled to any relief by way of reinstatement or otherwise. The award is made accordingly. There shall be no order as to costs.

Dated, the 2nd April, 1974.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 871, dated the 8th April, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

The 23rd April, 1974

No. 3410-4-Lab-74/12727. -In pursuance of the provisions of Section 17 of the Industries Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of Messrs Mahabir Metal Works, Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 88 of 1972

between

SHRI MALOOK CHAND BANSAL AND THE MANAGEMENT OF MESSRS MAHABIR  
METAL WORKS (P) LTD., FARIDABAD

Present

Shri Roshan Lal Sharma, for the workman.

Shri S.L. Gupta, for the management.

AWARD

Shri Malook Chand Bansal was in the service of Messrs Mahabir Metal Works (P) Ltd., Faridabad. The management terminated his services with effect from 24th November, 1971 (afternoon). He raised a dispute

demanding reinstatement with continuity of previous service and back wages which was referred for adjudication to this court by order No. ID/FD/414-B-72/8675, dated 2nd March, 1972 of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, with the following term of reference: --

"Whether the termination of services of Shri Malook Chand Bansal was justified and in order ? If not to what relief is he entitled ?"

Usual notices were given to the parties and they filed their pleadings. According to the management this workman had been found guilty of certain serious acts of mis-conduct, for which he was charge-sheeted and after taking his explanation which was found to be un-satisfactory, an enquiry was held into his conduct. The Enquiry Officer found him guilty of the charges, on consideration of which his services were terminated. The workman denied the charges levelled against him by the management and contended that the order of the termination of his services was illegal although he did not dispute the factum of the enquiry said to have been held against him.

From the pleadings of the parties the issue that arose for determination in the case was precisely the same as per the term of reference stated above.

The management has relied upon the enquiry proceedings and examined 2 witnesses, namely, Shri S.K. Khanna, Manager, M.W.1 and Shri B.R. Grover, Enquiry Officer, M.W. 2. The documents proved by these witnesses consist of the charge-sheets 1 x. M.1 & M.2, explanation of the workman, Ex. M.3, letter of appointment of Shri B.R. Grover as the Enquiry Officer, Ex.M.4, enquiry record containing the findings of guilty against the workman, Ex.M.5, letter of termination of the services of the workman, Ex.M.6, show-cause notice Ex.M.7, reply of the workman to the show-cause notice Ex.M.8, the record of the enquiry proceedings Ex. M.10. According to Shri B.R. Grover the enquiry was properly held by him after due notice to the workman who had fully participated in the enquiry and besides making his own statement he has led no evidence in defence although opportunity for this purpose was given to him. Shri S.K. Khanna, M.W.1 has stated that earlier also warning had been given to this workman, -vide letter Ex.M.9 and since the charges had been established against him in the enquiry his services had to be terminated.

The workman has made his brief statement that he had joined service in the factory in 1970 and was dismissed from service on 24th November, 1971 and thereafter another person had been appointed in his place. According to him the enquiry was held by Shri S.L. Gupta and he had signed the enquiry proceedings, but no opportunity was given to him to cross-examine the witnesses.

I have heard the learned representatives of the parties and given a careful consideration to the facts on record. As already pointed out, the management had levelled charges of misconduct against this workman by means of 2 separate charge-sheets dated 29th October, 1971, Ex.M.1 that he had misbehaved towards his senior Officer Shri R.S. Goel, Engineer, Incharge by using objectionable words and had not given him the report of his work on 28th October, 1971 and the second charge-sheet, dated 8th November, 1971, Ex.M.2 that he had remained absent from duty without permission from 3rd to 5th of November, 1971. The explanation of the workman to these charge-sheets is on the record. The management was not satisfied with this explanation and, therefore, ordered an enquiry into his conduct and Shri B.R. Grover was appointed as the Enquiry Officer, -vide letter dated 18th November, 1971, Ex.M.4. According to Shri B.R. Grover the enquiry was properly held by him and the workman was given full opportunity to defend himself. He had found him guilty of the aforesaid charges levelled against him by the management and on consideration of his findings, the management did not consider him to be a desirable person for retaining in service. The workman has come into the witness-box and admitted that he had been given the charge-sheet and the enquiry was held against him by Shri S.L. Gupta which is wrong. The enquiry was infact held by Shri B.R. Grover as is clear from the appointment letter, Ex.M.4 and his own statement read with the enquiry proceedings filed in the case. Not a word has been said by the workman against the Enquiry Officer Shri B.R. Grover nor has it been stated that he was not given any opportunity of defending himself. A perusal of the enquiry record shows that he was given the opportunity to cross-examine the witnesses of the management but for reasons better known to him he declined this offer and stated that he had no questions to put to the witnesses in cross-examination. He did make his own statement before the Enquiry Officer on 22nd November, 1971 and stated in clear words that he had no other evidence to produce in defence.

In view of the facts stated above, I do not find any thing wrong with the enquiry held against the workman in the present case. The charge of mis-behaviour towards the senior officer by using objectionable language was serious enough and amounted to mis-conduct. He had further absented himself from duty for several days without obtaining permission of the management. The Enquiry Officer had no prejudice against him nor is there any thing to indicate that he was a witness of the occurrence. The enquiry proceedings read with his statement do not show that he had violated any principle of natural justice. In the circumstances, the enquiry has to be upheld and the learned representative of the workman concerned has not been able to satisfy me to the contrary.

It would thus appear that this workman was guilty of serious acts of mis-conduct which were duly established against him in a proper enquiry held in accordance with law of the principles of natural justice and the enquiry Officer having found him guilty of the charges of misconduct, the management was well within its rights to terminate his services. In the circumstances, the impugned order of the termination of his services does not call for interference in the present proceedings.

For the reasons aforesaid, the issue involved is decided against the workman and it is held that the termination of his services by the management was justified and in order and therefore, he is not entitled to any relief by way of reinstatement or payment of any back dues. The award is made accordingly, but without any order as to costs.

Dated the 10th April, 1974.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 880, dated 15th April, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No 3411-4 Lab-74/12729.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Municipal Committee, Bhiwani.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No 143 of 1970

*between*

SHRI PADAM SINGH AND THE MANAGEMENT OF MUNICIPAL COMMITTEE, BHIWANI

*Present :*

Shri Sagar Ram Gupta, for the workmen.

Shri M.L. Gupta, for the management.

#### AWARD

Shri Padam Singh concerned workman was appointed as a Driver on probation for six months in the Fire Brigade of the Municipal Committee, Bhiwani, —*vide* order, dated 13th March, 1969, Exhibit W. 1 on record. He actually joined duty on 19th March, 1969 as per endorsement in the appointment letter referred to above. The management terminated his services with effect from 7th August, 1969,—*vide* resolution No. 36 of 6th August, 1969 copy Exhibit M. 5. Feeling aggrieved, he raised a dispute demanding reinstatement and payment of back wages,—*vide* demand notice, dated 15th September, 1969 contending that the impugned order of the termination of his services was illegal. The management did not accept this demand. The matter was taken up for conciliation, which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the above dispute for adjudication to this court,—*vide* order No. ID/HSR/19-A-70/25598-602, dated 25th August, 1970, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 with the following term of reference.

“Whether the termination of services of Shri Padam Singh was justified and in order If so, to what relief is he entitled ?”

The parties put in their pleadings giving rise to the following 3 issues :—

- (1) Whether the Fire Brigade Section of the Municipal Committee, Bhiwani is not covered by the Industrial Disputes Act ?
- (2) Whether the present reference is bad in law for reasons given in the written statement ?
- (3) Whether the termination of the services of Shri Padam Singh was justified and in order ? If not to what relief is he entitled ?



Issues Nos. 1 and 2 were decided against the management, —vide order dated 7th January, 1971 of my learned predecessor and the Writ Petition filed against this order by the management was also dismissed by Hon'ble the High Court on 20th September, 1973.

On the remaining issue No. 3 on merits, the management has examined Shri Manohar Lal, Secretary of the Municipal Committee who has proved 5 documents including the letter of appointment of the workman Exhibit M-1, note dated 21st July, 1969 of the President of the Municipal Committee that taking into consideration the responsible nature and the duties to be performed by the staff in the Fire Brigade their appointments have not been properly made and their performance was also not satisfactory Exhibit M-2, copy of the resolution of the Committee showing an agreement with the aforesaid note of the President Exhibit M-3, letter dated 6th August, 1969 of the President of the Committee terminating the services of Shri Padam Singh, Driver and Shri Suresh Chand, Fireman Exhibit M-4, communication of this letter to Shri Padam Singh under the signatures of the President of the Committee Exhibit M-5.

On the other hand, Shri Padam Singh workman concerned has made his own statement besides examining Shri Ganesh Dutt ex-Municipal Commissioner and has relied upon 5 documents, namely, the letter of his appointment Exhibit M-1, letter, dated 7th August, 1969 addressed to the Secretary of the Committee that Shri Raje Ram on duty in the Fire Brigade had informed him that his services had been discharged, Exhibit W-2, letter, dated 9th August, 1969 addressed to the President of the Committee questioning the validity of the order of the termination of his services Exhibit W-3, postal certificate Exhibit W-4 and a proposal signed by 16 Municipal Commissioners that Shri Padam Singh be taken back on duty by modification of resolution No. 36 of 6th August, 1969 Exhibit M-5.

The case has been well argued on both sides and I have given a very considered thought to the matter involved. The facts are more or less admitted. It has not been denied that Shri Padam Singh had been appointed on 13th March, 1969 on probation for 6 months. It is also a common ground between the parties that his services were terminated before the expiry of the probation period on 7th August, 1969 when he had put in service for less than 5 months. The main contention raised on behalf of the workman is that according to the rule of law laid down by the Hon'ble Judges of the Supreme Court and the High Courts and also taking into consideration the principles of natural justice, the termination of the services of the present workman before the expiry of the period of probation was not justified and the Municipal Committee was not competent to pass such an order. I have been referred to certain authorities on the point and I have very carefully gone through the same.

As a general rule of law and principles of natural justice, the proposition put forward by the learned representative of the workman would appear to be sound and reasonable but in my humble opinion a person who is appointed on probation has no absolute and unrestricted right to continue in service during the entire period of probation and it can not by any stretch of imagination be said that the employer is not competent to terminate his services in any circumstances. Supposing for the sake of argument that a workman who is appointed on probation for a fixed period takes it into his hand, not to attend to his duties properly is irregular in attendance and starts misbehaving towards his officers, it can not be held that the employer would be under obligation to allow the period of probation to expire before taking any action against him. Rule 45(i) of the Punjab Municipal Act, 1911 which can usefully be reproduced here in a way contemplates the discharge from service of an employee during the period of probation : —

"In the absence of a written contract to the contrary, every officer or servant employed by the Committee shall be entitled to one month's notice before discharging or to one month's wages in lieu thereof, unless he is discharged during a period of probation or for misconduct or was engaged for a specified term and discharged at the end of it".

The correct position of the law has been laid down in the case of *Brook Bond India (P) Ltd., V/s Y.K. Gautam* reported as 1973-74 F.J.R. page 339 wherein Hon'ble the Judges of the Supreme Court have been pleased to lay down as under : —

"In such a case what was required to be seen was, whether the action of the employer was *malafide* or whether it amounted to victimisation of the employee or an unfair labour practice or was so capricious or unreasonable as would lead to an inference that it had been taken for ulterior motive and was not in bonfide exercise of the power arising out of the contract".

But nothing of the sort has been established in the case before me. There is no plea of victimisation unfair labour practice or *malafide* on the part of the Municipal Committee or its President in passing the order in question what to speak of leading any evidence on these points.

There is another aspect of the case which deserve consideration here. The President of the Municipal Committee had put up a note suggesting that the duties to be performed by the staff of the Fire Brigade were of a responsible nature but he was not satisfied with the appointments of the staff nor was their work found to be satisfactory. This note of the President was considered by the entire Committee and all the members unanimously agreed with his views. In the circumstances, it can not be said that the order in question, the subject matter of the present reference was in any way arbitrary or capricious. Alongwith Shri Padam Singh the services

of Shri Suresh Kumar, Fire-man were also terminated by the same order. No material has been brought on the record to indicate that the President or any other member of the Municipal Committee had any ill will or prejudice against the present workman. Shri Suresh Kumar the other workman stated to have not even raised any dispute.

My attention has been drawn to a document on record mark Exhibit W-5 which purports to be a proposal signed by 16 out of 23 members of the Municipal Committee that the resolution No. 36 of 6th August, 1969 should be set aside and Shri Padam Singh concerned workman should be taken back on duty. It has not been shown how and under what circumstances this document was prepared and whether it was ever presented to the President or the other members of the Municipal Committee and if so, what act on was taken on it. Although it purports to have been signed by 16 members of the Committee none has been examined as a witness to corroborate the testimony of Shri Ganesh Dutt W.W. 2. Moreover, this document which has not been legally proved has no value in view of the unanimous resolution passed by all the members of the Committee supporting the note of the President of the Committee referred to above.

So taking into consideration all the facts and the circumstances of the case, I am convinced that the management (Municipal Committee, Bhiwani) was not actuated by any notices of victimisation, *malafide* or unfair labour practice in passing this impugned order, of termination of the services of Shri Padam Singh workman concerned and the same is, therefore, held to be justified and in order and as such he is not entitled to any relief by way of reinstatement or re-employment. The award is made accordingly, but without any order as to costs.

Dated the 10th April, 1974.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 881, dated 15th April, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana, Rohtak.

The 26th April, 1974

No. 3533-4Lab-74/12952.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workman and the management of M/s K. Shri Industries, Chhirimar Mohalla, Old Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 180 of 1973

between

SHRI JAGDISH CHAND, WORKMAN AND THE MANAGEMENT OF M/S K. SHRI INDUSTRIES, CHHIRIMAR MOHALLA, OLD FARIDABAD

Present: —

Shri Jagdish Chand, concerned workman.

Shri Gopal, Proprietor, for the management.

AWARD

Be order No. ID/FD/73/42215, dated 31st June, 1973 of the Governor of Haryana, the following dispute between the management of M/s K. Shri Industries, Chhirimar Mohalla, Old Faridabad and workman Shri Jagdish Chand was referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Jagdish Chand was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference the parties were called upon to put in their respective claims. It is, however, not necessary to proceed with the case as an amicable settlement has been arrived at between the parties as per the memorandum of settlement Ex. M-1 and a joint request for recording the settlement and disposal of the case has been made,—vide Ex. M-2. The statements of the parties have been recorded. Shri Jagdish Chand, workman concerned admits his signatures on the memorandum of settlement Ex. M-1 as well as the joint application made by the parties Ex. M-2.

In view of the above, a no dispute award is given in the case as desired by the parties. There shall be no order as to costs.

Dated the 12th April, 1974.

O.P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 355, dated the 15th April, 1974

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 12th April, 1974.

O.P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 3536 4Lab-74/12955.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana Faridabad, in respect of the dispute between the workmen and the management of M/s Green Wood Company, Parvesh Marg Railway Road Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 9 of 1974

Between

SHRI GURMUKH SINGH WORKMAN AND THE MANAGEMENT OF M/S GREEN  
WOOD COMPANY, PARVESH MARG RAILWAY CROSSING, RAILWAY ROAD,  
FARIDABAD

Present.—

Nemo, for the workman.

Shri Jawahar Singh, for the management.

#### AWARD

The following dispute between the management of M/s Green Wood Company, Parvesh Marg, Railway Crossing, Railway Road, Faridabad, and its workman Shri Gurmukh Singh was referred for adjudication to this Tribunal,—vide order No. ID FD 73 2103, dated 23rd January, 1974, of the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Gurmukh Singh was justified and in order? If not, to what relief is he entitled?

Usual notices were given to the parties. The management has pleaded settlement of the dispute with the workman concerned. Shri Jawahar Singh one of the partners of the concern has stated that Shri Gurmukh Singh had approached the management for the settlement of his account and a sum of Rs 69 found due as per mutual calculations was paid to him against voucher Ex. M-1 on which the workman has made an endorsement in his own hand writing and under his own signature that he has now no dispute left with the management. He has further produced a copy of the application Ex. M-2 addressed by the workman to this Court to the same effect and also A.D. receipt Ex M 3 relating to the said application sent under registered cover. The workman has not turned up today and his authorised representative Shri Chaman Lal Oberoi has also not come forward to refute the plea of the above settlement raised on behalf of the management.

In view of the above no further proceedings are called for in the case and a no dispute award is made in terms of the above settlement. There shall be no order as to costs.

Dated the 12th April, 1974.

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 354, dated 15th April, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 12th April, 1974.

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.